IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5729 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAKESH ARVINDBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 5729 of 2000

MR MJ THAKORE SR. ADVOCATE WITH MS MEGHA JANI for Petitioner No. 1

MS. MITA PANCHAL APP for Respondent No. 1

MR SI NANAVATI SR. ADVOCATE WITH SV RAJU for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 19/08/2004

ORAL JUDGEMENT

1. Mr. MJ Thakore, learned Senior Advocate with Ms. Megha Jani, learned advocate of the petitioner, seek leave to withdraw the petition unconditionally. Mr. SI Nanavati, learned Senior Advocate with Mr. SV Raju, learned advocate of respondent No.2/original complainant objected to the request for withdrawal of the petition as, according to them, by filing this petition, the petitioner has restrained the investigating officer from investigating into the FIR being CR No.II-222 of 2000 registered with Madhupura Police Station, Ahmedabad, against him by respondent No.2/original complainant for almost four years. Therefore, he prayed that if at all this Court allows the petitioner to withdraw the petition unconditionally, the petitioner must be saddled with heavy exemplary cost. He also urged that appropriate direction to investigating officer for expeditious investigation into the FIR being CR No.II-222/2000 registered with Madhupura Police Station, Ahmedabad may also be issued by this Court so that the investigation can be reached to its logical end within reasonable time. Ms. Panchal, learned APP has no objection if leave as prayed for is granted. She also states upon instructions received from responsible officer of Madhupura Police station that the investigation will be completed as early as possible as may be directed by this court.

2. Having considered the request made by Mr. Mihir Thakore and the objection raised by Mr. Nanavati, this Court deems it expedient to accede to the request made by Mr. Thakore for withdrawal of the petition unconditionally. Hence, leave to withdraw the petition unconditionally is granted. The petition stands disposed of as withdrawn unconditionally.

3. So far as the prayer made by Mr. Nanavati for granting of heavy exemplary cost is concerned, this Court does not deem it expedient to grant the said request. Hence, the request made by Mr. Nanavati for heavy exemplary cost is rejected. So far as prayer with regard to giving direction to investigating officer for expeditious investigation is concerned, the investigating officer is directed to expedite the investigation of FIR registered vide CR No.II-222/2000 with Madhupura police station as expeditiously possible and shall complete the same preferably within a period of six months hereof. It is expected that the petitioner shall fully cooperate with the investigating officer by remaining present as and when he is called for for interrogation by the investigating officer.

4. Rule is discharged. Interim relief granted earlier shall stand vacated.

(A.M. Kapadia, J.)

(karan)